

REMARKS

Applicants request entry of the amendments and consideration of the remarks in the Response to Final Office Action filed June 24, 2008. Applicants note the Examiner's comments in the August 1, 2008 Advisory Action relating to some of the remarks made in the Response to Final Office Action filed June 24, 2008 and respond as follows:

Double Patenting Rejections

The Examiner states that she could not locate language in the Restriction Requirement in USSN 10/314,577 pertaining to the division between non-alpha amino acid linkers and non-alpha amino acid with cyclic group linkers. Applicants respectfully point the Examiner's attention to the 27-group restriction requirement where separate groups were created for several non-alpha amino acids, substituted bile acids and non-alpha amino acids with cyclic group. (See 6/17/04 Restriction Requirement pp. 2-6). That is, the compounds of the Markush groups of claims 3, 19 and 44 of USSN 10/314,577 were split up into different groups (these compounds being non-alpha amino acids, substituted bile acids and non-alpha amino acids with cyclic group). While applicants had proposed creating 3 groups (non-alpha amino acid, substituted bile acid and non-alpha amino acid with cyclic group), the Examiner maintained the 27-way restriction requirement, thus the Restriction Requirement in USSN 10/314,577 is even more restrictive than that proposed by applicants. (See 7/15/04 Interview Summary). For example, Groups I-IV are non-alpha amino acids, Groups V-XII are substituted bile acids and Groups XIII-XXVI are non-alpha amino acids with cyclic group. Furthermore, the Examiner stated:

Inventions I-XXVII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the different inventions are unrelated because the compounds

of each group are structurally different. Thus, even though the claims class in the same area, prior art anticipating or rendering one group obvious would neither anticipate nor render obvious another group. Hence, a separate search of the prior art is necessary for each group of compound.

Therefore, applicants respectfully maintain that it is improper to assert obviousness-type double patenting over divisional applications (USSN 11/467,237 and USSN 11/467,301) filed as a consequence of the 27-way restriction requirement in USSN 10/314,577 because the 27 groups (which include groups directed to non-alpha amino acids and non-alpha amino acids with cyclic group) have been deemed patentably distinct from one another. See MPEP 804.01.

In view of the foregoing, and the arguments and amendments submitted June 24, 2008 in the Amendment and Response to Final Office Action, applicants respectfully submit that the presently pending claims are in condition for allowance. If a telephone interview would be of assistance in advancing prosecution of this application, Applicant's undersigned attorney encourages the Examiner to telephone him at the number provided below.

No fee, other than the fee for an RCE and extension of time, is believed to be necessary in connection with the filing of this Response. If any additional fee is necessary, however, applicant hereby authorizes such fee to be charged to Deposit Account No. 50-0540.

Respectfully submitted,

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/Henry J. Cittone/
Henry J. Cittone, Reg. No. 57,206
Donald L. Rhoads, Reg. No. 34,705
KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of Americas
New York, New York 10036
(212) 715-9100 (telephone)
(212) 715-8000 (facsimile)